

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5799 of 1992

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

MURADKHAN NARKHAN KHOKHAR

Versus

STATE OF GUJARAT

Appearance:

MR SV RAJU for Petitioner

M/S PATEL ADVOCATES for Respondent No. 1, 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 08/09/2000

ORAL JUDGEMENT

Heard the learned advocates.

2. The petitioner before this Court is a workman who claims that while he was serving as Forest Guard under the respondent no. 2, he was illegally terminated on 30th March, 1983. Feeling aggrieved, he raised an industrial dispute which was referred to the Labour Court, Ahmedabad and was registered as LC-IDA-T No. 973/84, however, since the workman was not present before the Court, by order

dated 31st August, 1988, the reference was dismissed for non-prosecution. Feeling aggrieved, the petitioner has preferred the present petition on 10th October, 1992.

3. It appears that the reference was dismissed as far back as on 31st August, 1988 and though there being a provision for moving the Court for restoration, the petitioner has not availed of the said remedy and has instead preferred this petition under Arts. 226/227 of the Constitution and that too more than 4 years after the date of the impugned order. The petitioner has not put forth explanation for the said delay except saying that the petitioner had no funds. Considering the facts and circumstances of the case, the petition is allowed and the following order is made.

4. The impugned order dated 31st August, 1988 made by the Special Labour Court, Ahmedabad in Reference LC-IDA-T No. 973 of 1984 is quashed and set-aside. The reference is ordered to be restored on the files of the Special Labour Court, Ahmedabad on condition that in the event the petitioner succeeds in the said reference, the petitioner shall not be entitled to any service benefits; including the continuity of service, wages, increments, etc. for the period from the date of alleged termination of service till 1st October, 2000.

5. Rule is made absolute to the above extent. The parties shall bear their own costs. Registry will send the writ forthwith.